BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL BENCH RAIPUR

O.A. NO. ------/2001

Applicant : Kanahayalal Hirwani , Aged 40 Years
S/O Shri Udaylal Hirwani , Assistant Teacher
Navin Govt. Primary School , Jangneshar
Tas. & Dist. Rajnandgaon (C. G.)
verses.

Non-applicant 1. The State Govt. Of Chhattisgarh
Through the secretary,
School Education Department,
Mantralaya Dau Kalyansingh Bhawan,
(Old D.K. Bhawan) Raipur (C. G.)

2. The District Education Officer,
Rajnandgaon (C. G.) .

APPLICATION U/S 19 OF THE ADMINISTRATIVE TRIBUNAL ACT 1985

The particulars of the application are furnished below :-

(19)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S.) NO.4130 OF 2005

Petitioner : Gopesh Kumar Verma

versus

Respondents : The State Govt. of Chhattisgarh and another

WRIT PETITION (S.) NO.4517 OF 2005

Petitioner : Ramanuj Prasad Shrivas

versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.4677 OF 2005

Petitioners : Basant Raj Yadav and another

versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.4705 OF 2005

Petitioners : Vijay Narayan Shrivastava and another

versus

Respondents : State of Chhattisgarh and others

(20)

WRIT PETITION (S.) NO.4408 OF 2005

Petitioners : Domar Singh Gurupanch and others

versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.4409 OF 2005

Petitioners : Shyam Singh and others

versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.4448 OF 2005

Petitioners : Rajendra Kumar Prajapati and others

versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.4490 OF 2005

Petitioners : Manoj Kumar Madhariya and another

versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.4443 OF 2005

Petitioner : Chunni Lal Sharma

versus

Respondents : The State Govt. of Chhattisgarh and another

(21)

WRIT PETITION (S.) NO.4444 OF 2005

Petitioner : Kanahayalal Hirwani

versus

Respondents : The State Govt. of Chhattisgarh and another

WRIT PETITION (S.) NO.4230 OF 2005

Petitioner : Smt. Bedbai Thakur

versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.4231 OF 2005

Petitioner : Rammilan Sinha

versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.4233 OF 2005

Petitioner : Raj Kumar Ramteke

versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.4235 OF 2005

Petitioner : Krishna Ram Thakur

versus

Respondents : State of Chhattisgarh and others

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WRIT PETITION (S.) NO.4236 OF 2005

Petitioner : Bhikham Singh Sinha

versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.4074 OF 2005

Petitioners : Dinesh Kumar Nag and others

versus

Respondents : State of Chhattisgarh and another

Present : Mr. Ajay Shrivastava, Mr. Anupam Dubey, Mr. Rakesh Anthony and Mr. Kunal Das, counsel for the petitioner(s).

Mr. V.V.S.Moorthy, Deputy Advocate General with Ms. Sunita Jain, Panel Lawyer for the State/respondents.

ORDER

(Passed on 15th Day of December, 2006)

The petitioners are working as Lecturer/Head Master/ Head Mistress/Upper Division Teacher/Assistant Teacher in Government Schools/School Education Department. In the course of their services as Lecturer/Head Master/Head Mistress/Upper Division Teacher/Assistant Teacher, the petitioners have obtained B.Ed./B.T.I./D.Ed. Certificates at their own expenses before 1-3-1999.

2. Learned counsel appearing for the petitioners submit that the 'Basic Training Institute' (B.T.I.) Certificate has been renamed by the order of the State Government as 'Diploma in Education' (D.Ed.)

Certificate. The petitioners, who have obtained D.Ed. Certificate prior to 1-3-1999, are entitled to the same relief as is granted to the candidates who had obtained B.Ed./B.T.I. Certificates on their own expenses as per the circulars dated 24-12-1998 and 1-3-1999.

3. Learned Deputy Advocate General appearing for the State/respondents submits that in the light of the letter dated 12-12-2006, sent by the Director, Public Instructions, Chhattisgarh, Raipur to Deputy Advocate General, Office of Advocate General, Bilaspur, annexing memo dated 28-1-1995, issued by the Secretary, Board of Secondary Education, Bhopal and the prospectus of Diploma in Education Examination, the nomenclature of the Basic Training Institute, i.e., B.T.I. has been changed and renamed as Diploma in Education, i.e., D.Ed. Learned Deputy Advocate General also referred the circular dated 24-12-1998, issued by the School Education Department, Government of Madhya Pradesh, Bhopal, allowing two increments to the Teachers, who have obtained B.Ed./M.Ed./B.T.I. Certificates.

4. The present batch of writ petitions are being disposed of by this common order as the facts and question of law involved in these petitions are common.

5. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of ***Yashwant Kumar Bharadwaj*** **vs.** ***Municipal Corporation, Durg and another***[1], wherein it has been held that the Teachers, having obtained B.Ed., M.Ed., B.T.I. Certificates, at

their own expenses, are covered by the circular dated 24-12-1998 issued by the State Government of Madhya Pradesh.

6. Further, in the matter of ***Smt. Manorama Shrivastava*** **vs.** ***State of M.P. and others***[2], the Madhya Pradesh Administrative Tribunal, Gwalior Bench, while considering the circular dated 1-3-1999, wherein it is provided that the Assistant Teachers, who have acquired B.Ed. Degree at their own cost between 23-10-1964 and 7-5-1973 shall be entitled to two advance increments, relied on decision in the case of *Rakesh Kumar Shrivastava vs. State of M.P. and others* passed in Original Application No.1632 of 1999, decided on 12-10-1999, wherein it is observed that the circular dated 1-3-1999 cannot be made applicable retrospectively. Thus, a Teacher, may be Assistant Teacher, who has obtained B.Ed. Degree before 1-3-1999 is entitled to two advance increments.

7. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No.1999 of 2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1-3-1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers, who have obtained B.Ed./B.T.I. Certificates before 1-3-1999. It is further substantiated by a circular dated 17-10-2003 issued by the present State of Madhya Pradesh, wherein the circular clearly states about the decision of the Hon'ble Supreme Court.

8. Learned counsel appearing for the petitioners further submit that the facts and question of law involved in the present cases are squarely covered by the decision of this Court in the case of *Yashwant Kumar Bharadwaj* (Supra), to which learned counsel appearing for the State/respondents fairly concedes and agrees with the averments made by learned counsel appearing for the petitioners.

9. In the event, the D.Ed. Certificate holders are equal to the B.T.I. Certificate holders, they are entitled to the same relief as is granted to the candidates who had obtained B.Ed./B.T.I. Certificates on their own expenses as per the circulars dated 24-12-1998 and 1-3-1999, in terms of the orders passed in the case of *Yashwant Kumar Bharadwaj* (Supra).

10. Accordingly, the writ petitions are disposed of in terms of the decision of this Court in the matter of *Yashwant Kumar Bharadwaj* (Supra), subject to verification of the fact as to whether the petitioners have acquired B.Ed./B.T.I./D.Ed. Certificates at their own expenses as per the circulars dated 24-12-1998 and 1-3-1999 and further whether they have been paid two advance increments or not. No order as to costs.

11. A copy of this order be placed on the record of the connected writ petitions.

Sd/-
Satish K. Agnihotri
Judge

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1 2006 (II) MPJR-CG 96

2 2000 (1) M.P.L.S.R. 136

Gopal